IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.375 OF 2006

Kanjibhai Barot ...Applicant
Vs.
Ramesh Krishna Nakashe & Anr. ...Respondents

Mr.C.K. Pendse with Mr.A.R. Kapadnis, Advocates for the Applicant.
Mr.Tushar P. Gangawane, Advocate for Respondent No.1.
Mr.U.V. Nikam, APP for the State.

CORAM : J.H. BHATIA, J.
Date : March 1, 2007.

P.C. :

. Heard learned counsels for both the parties. The applicant had preferred Criminal Appeal No.208 of 2005 challenging his conviction and sentenced for the offence punishable under section 138 of the Negotiable Instrument Act in Criminal Case No.3988/SS/2005. The Appeal came to be dismissed on 11th September, 2006.

. The learned Appellate Court noted that in spite of number of adjournments granted to the appellant and respondents, they were absent, neither they have settled the matter nor their counsel was present to argue the matter. In such circumstances, the learned 3rd Ad-hoc Additional Sessions Judge perused the record, heard the counsel for the Respondent/Complainant and dismissed the Appeal. The learned counsel for the Appellant contends that an opportunity was not given to him and the evidence

could not be properly analysed as the counsel for the appellant was absent. By this revision he seeks to set aside the judgement passed by the Appellate Court.

. After some discussion at par the learned counsel for the Respondents concedes that the Revision Application may be allowed and the Appeal may be remanded back to the Additional Sessions Judge for giving an opportunity to the appellant to argue the case within a specified period.

. Taking into consideration the stake involved in the matter and the circumstances, I find that it will be in the interest of justice to remand the Appeal back to the Appellate Court for hearing afresh and disposal as per law after giving an opportunity to the appellant to argue the case.

. The Revision Application be allowed. The judgement and order passed in Criminal Appeal No.208 of 2005 is hereby set aside and the Appeal is remanded back to the Appellate Court for hearing and disposal of the same as afresh as per law. The learned Appellate Court shall give an opportunity to the Appellant, Respondent No.1 and their counsel to argue the case. No further adjournment shall be granted by the Appellate Court to the appellant for this purpose. As far as possible the Appeal shall be disposed of within a period of two months.

(J.H. BHATIA, J.)